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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,568	07/30/2003	Hideo Kawamoto		6473

7590

12/11/2003

MATTINGLY, STANGER & MALUR

Suite 370

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EXAMINER

FISHMAN, MARINA

ART UNIT

PAPER NUMBER

2832

DATE MAILED: 12/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/629,568

Applicant(s)

KAWAMOTO ET AL.

Examiner

Marina Fishman

Art Unit

2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1. ☒ Certified copies of the priority documents have been received.
  - 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***General Status***

1. This is a First Action on the Merits. Claims 1 – 9 are pending in the case and are being examined.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Numeral 611, described in the specification as an operating section.

Figure 5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The disclosure is objected to because of the following informalities:

Page 10, line 1, 'rotates' should be added before --CCW--; line 9, 'counterclockwise' should be changed to --clockwise--; line 11, 'transformer' should be changed to --transfer--; and line 14, '204' should be changed to --201--.

Page 16, line 5, '202' should be changed to --212--.

Only few of the deficiencies have been pointed out above, the applicant is required to review entire specification and make necessary corrections.

***Claim Objections***

5. Claims 8 and 9 are objected to because of the following informalities:

Claim 8, line 4 "there are provided a shock absorber..." should be corrected as "there is provided a shock absorber..."

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Peek et al. [US 4,027,125].

Peek et al. disclose a gas insulated circuit breaker [Figures 1 – 4] with:

- a breaking section with moving and fixed contacts, that installed in a ground vessel [31] filled with insulation gas [Column 2, line 51];
- an operating device [79] with a closing operating section and a breaking operation section for close/break the fixed and moving contacts [Column 2, lines 50 –60];

- a shock absorber [141 – 143] that absorbs the shock on the two contacts in the closing/breaking operations of the operating device [Column 5, lines 54 – 62];
- the shock absorber being installed in the breaking section of the operating device [Figure 4].

Regarding Claims 8 and 9, Peek et al. [Figure 4] disclose output lever [86] that is connected to the shock absorber, and the output lever rotates.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 5/1 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peek et al. [US 4,027,125] in view of Opfer et al. [US 5,298,704].

Peek et al. disclose the instant claimed invention except for 'load resulting from the action is not applied to the shock absorber in the course of the action'.

Opfer et al. discloses an arrangement wherein a slot [34] is provided in linkage [Figures 2 – 4].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a slot in the linkage in Peek et al., as suggested by

Opfer et al., in order to not to transfer the load to the shock absorber during the opening and closing movements [Column 1, lines 50 – 55].

8. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peek et al. [US 4,027,125] in view of Goodwin, Jr. et al. [US 3,932,719].

Peek et al. disclose the instant claimed invention except for a hydraulic type of a shock absorber.

Goodwin, Jr. et al disclose a multiple-impact shock-absorbing assembly for circuit interrupter and other apparatus with a hydraulic type of a shock absorber.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the hydraulic shock absorber in Peek et al., as suggested by Goodwin, Jr. et al, in order to absorb larger shock load.

### ***Double Patenting***

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 2, 4 and 5/2 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2

and 3 of copending Application No. 10/117,126. Although the conflicting claims are not identical, they are not patentably distinct from each other because the all elements of claims 2, 4 and 5/2 are substantially identical to the elements of claims 1, 2 and 3 of copending application 10/117,126, respectively. Claim 2 of the instant application recites a gas insulated switch with a breaking section comprising fixed and moving contacts installed in a grounded vessel, an operating device comprising closing operation section and breaking operation section, a shock absorber that absorbs the shock in closing and breaking operations and the breaking operation section provided with a breaking spring and the shock absorber being installed in the breaking spring. These are the same elements recited in claim 1 of the co-pending application 10/117,126. Regarding claim 4, of the instant application, the claim recites the details of the piston, and the same elements are recited in claim 2 of the co-pending application 10/117,126. In the same manner, the elements recited by claim 5/2 of the instant application, are the same elements recited by claim 3 of the co-pending application 10/117,126.

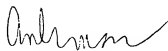
This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Fishman whose telephone number is 703-305-1665. The examiner can normally be reached on 6-4 M-T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on (703) 308-1782. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1920.



**ANNA MAI**  
**PRIMARY EXAMINER**

Marina Fishman  
December 2, 2003